

Pt. 2
 1 KATHLEEN MAYLIN (SBN (SBN 155371)
 2 CARA CHING-SENAHA (SBN 298467)
 JACKSON LEWIS LLP
 3 199 Fremont Street, 10th Floor
 San Francisco, California 94105
 Telephone: (415) 394-9400
 4 Facsimile: (415) 394-9401

5 Attorneys for Defendants
 6 NATIONAL RAILROAD PASSENGER
 CORPORATION dba AMTRAK and JOE DEELY

7
 8 UNITED STATES DISTRICT COURT
 9
 10 NORTHERN DISTRICT OF CALIFORNIA

11 JOHN EARL CAMPBELL,
 12 Plaintiff,

13 v.
 14 NATIONAL RAILROAD PASSENGER
 15 CORPORATION dba AMTRAK, JOE DEELY,
 and DOES 1-15, inclusive,

16 Defendants.

17 Case No. C05-05434 MJJ

18
19 DECLARATION OF CARA CHING-
SENHAHA IN SUPPORT OF
DEFENDANTS' NATIONAL
RAILROAD PASSENGER
CORPORATION'S AND JOE DEELY'S
MOTION FOR SUMMARY
JUDGMENT, OR IN THE
ALTERNATIVE, SUMMARY
ADJUDICATION

20 [Notice of Motion, Memorandum of Points
 and Authorities, and Declarations in
 Support of Motion concurrently filed]

21 Date: May 8, 2007
 Time: 9:30 a.m.
 Courtroom: 11
 Floor: 19
 Judge: The Hon. Martin J. Jenkins

22 Complaint Filed: 12/30/05
 FAC Filed: 2/23/06
 Trial Date: 7/23/2007

23 [Fed.R.Civ.Proc. 56]

24 I, Cara Ching-Senaha, declare on the basis of personal knowledge:

25
 26 1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
 27 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE
 28

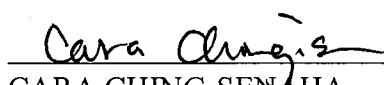
1 DEELY. I am licensed to practice law in the above-referenced district court. I make the
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

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19 CARA CHING-SENAHA
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1 one was filed? 01:42:07

2 A. Actually, this is the second one, I think.

3 Q. Are you sure about that?

4 A. Yeah.

5 Q. Hum. Well, let's see here. That was January 01:42:16

6 '04.

7 A. Uh-huh.

8 Q. All right. You think there was one filed before that?

9 A. Yes. 01:42:33

10 (Whereupon, Defendants' Exhibit No.

11 5 was marked for identification.)

12 MS. MAYLIN: Q. Okay. What I'm marking now 01:42:54

13 as Exhibit 5. -- this is going to be a test. Let's 14 see -- is a one-page document, with a little stamp at the 15 top left. There you go, Mr. Campbell. It's 16 Bates-stamped 0000001. (sic) Mr. Campbell, is that your 17 signature at the bottom?

18 A. Yes.

19 Q. Okay. And did you sign that around August 16, 01:43:23

20 2005?

21 A. It is dated that, yes.

22 Q. Okay. Well, do you believe that you signed it 01:43:34

23 the -- on the day that you dated it?

24 A. Yes.

1 Q. All right. And, sir, you signed it also under
2 penalty of perjury, correct? 01:43:34

3 A. Yes.

4 Q. All right. And, sir, is this the second
5 administrative charge that you filed? 01:43:44

6 A. Apparently this is the second.

7 Q. Okay. And it looks like that's August '05, as
8 opposed to 2004. So let me ask you a question here.
9 Does that refresh your recollection that the one we just
10 looked at, Exhibit (sic) 3 and 4, that that was the
11 first one you filed? 01:44:01

12 A. Yes.

13 Q. Okay. And what we're looking at now, Exhibit
14 5, that was the second one that you filed?

15 A. Yes.

16 Q. All right. And, sir, it looks to me like this
17 administrative charge was filed with the Department of
18 Fair Employment and Housing. Is that your recollection
19 as well?

20 A. Yes.

21 Q. Okay. Did you have counsel at the time you
22 filed this?

23 A. '05. Yes.

24 Q. Okay. And was -- is that your current
25 counsel, Price and Associates? 01:44:37

1 MS. PRICE: Same objection. Calls for a legal 01:31:39
2 conclusion, and I'm -- it's also argumentative and
3 misstates the witness's testimony.

4 THE WITNESS: No.

5 MS. MAYLIN: Q. Mr. Campbell, you filed a 01:32:01
6 couple of administrative charges with the EEOC and DFEH.
7 Do you recall that?

8 A. Yes.

9 Q. Let's see what I did with them. Here we go. 01:32:20
10 Okay. How many charges did you file, that you can
11 recall?

12 A. Two.

13 Q. Two?

14 A. Yes.

15 Q. All right. Were they both with the EEOC or 01:32:28
16 with the DFEH, or one each, or do you recall?

17 A. I think they were both with the EEOC.

18 Q. All right. Well, I'll give you the one that I 01:32:49
19 have as being the first one, and I'll see if that's
20 true. What I'm marking as Exhibit 3 is a one-page
document, Bates-stamped D09919. Here you go.

22 (Whereupon, Defendants' Exhibit No. 23 was marked for identification.)

24 MS. MAYLIN: Q. Mr. Campbell, this appears to 01:33:11
25 me to be a charge of discrimination filed with the EEOC.

1 It looks like it was signed on January 28, 2004 and 01:33:15
2 marked received by the EEOC on February 9, 2004. So
3 is that your signature at the bottom?

4 A. Yes.

5 Q. Okay. Do you recall submitting this form to 01:33:27
6 the EEOC, Mr. Campbell?

7 A. Yes.

8 Q. And, sir, was this the first of the charges 01:33:38
9 that you filed with either the EEOC or DEER?

10 A. Yes.

11 Q. Okay. And, sir, were you represented by
12 counsel at the time that you signed this and submitted
13 it?

14 A. No.

15 Q. Okay. Did anyone help you fill this out? 01:33:49

16 A. No.

17 Q. You did it all on your own?

18 A. Yes.

19 Q. Okay. So the typed part of the document,
20 where there's some fill-in-the-blanks, or there's Xs and
21 some blanks, and then there's some typed-in information,
22 did you type that in yourself?

23 A. No.

24 Q. Who typed that, as far as you know?

25 A. I suppose somebody at the EEOC. 01:34:15

1 you sent in an old resume? 01:52:14
2 "Isn't that true?
3 "Answer: I also sent in an Amtrak
4 application with this resume, so...")
5 MS. PRICE: Thank you. 01:53:09
6 MS. MAYLIN: Q. I guess we're taking a break,
7 Mr. Campbell.
8 THE VIDEOGRAPHER: It is 1:53. We're going
9 off the record.
10 (Recess taken: 1:53 p.m. until 2:02 p.m.) 01:53:18
11 THE VIDEOGRAPHER: We are back on the record.
12 It is 2:02.
13 MS. MAYLIN: Q. Actually, I'm sorry, we've
14 got to go off the record just for a sec.
15 THE VIDEOGRAPHER: We're going off the record. 02:03:30
16 It is 2:03.
17 (Recess taken: 2:03 p.m. until 2:04 p.m.)
18 THE VIDEOGRAPHER: We are back on the record,
19 and it is 2:04.
20 MS. MAYLIN: Q. Okay. Mr. Campbell, you were
21 initially hired, as you said, as an assistant conductor.
22 What I'm marking here as Exhibit 7 is a multiple-page
23 document, D01276 (sic) and 77. Here you go. This is
24 the letter you received from Amtrak, correct?
25 A. Correct. 02:04:39

(Whereupon, Defendants' Exhibit No.

02:04:41

7 was marked for identification.)

MS. MAYLIN: Q. And that was sent to you by Denise Sargeant, who you testified was the African-American member of the panel who you interviewed with, correct?

02:04:49

A. Correct.

Q. Okay. And when you started with Amtrak, you got quite a few booklets and documents to look at, didn't you?

02:05:04

A. Yes.

Q. Okay. And what I'm marking here as Exhibit 8
is a "New-Hire Checklist - Agreement..." There you go,
Mr. Campbell. D10275.

(Whereupon, Defendants' Exhibit No.

8 was marked for identification.)

MS. MAYLTIN: Q. And that's your signature on
that? Your signature? Correct?

A. Connect

O: Okay. And on September 30, 1998, you signed that you received all of the information that are marked as "yes" checks. correct?

A. Correct

C. Okay. And, Sir, you do see that you've checked "Yes" that you received the Company's Equal

02:05:50

1 Employment Opportunity Policy, do you see that? 02:05:54
2 A. Yes.
3 Q. Okay. And you did receive that, didn't you?
4 A. Yes.
5 Q. Okay. And you also received harassment 02:06:00
6 information as well?
7 A. Yes.
8 Q. Okay. And you understood, didn't you 02:06:15
9 Mr. Camboelli, that Amtrak had a pretty detailed
10 harassment and -- non-harassment, non-discrimination
11 policy and complaint procedure, correct?
12 MS. PRICE: Objection. Vague and ambiguous as
13 to "pretty detailed."
14 THE WITNESS: Correct.
15 MS. MAYLIN: Q. Okay. And indeed, you 02:06:28
16 understood, over the years of your employment at Amtrak,
17 that Amtrak has an EEOC -- I'm sorry, an EEO officer who
18 is responsible for taking any complaints and
19 investigating complaints, correct?
20 MS. PRICE: Objection. Lacks foundation; 02:06:47
21 assumes facts; calls for speculation.
22 THE WITNESS: Correct.
23 MS. MAYLIN: Q. Okay. And you had two times 02:07:02
24 during your employment where you had contact with the
25 EEOC officer, didn't you?

1 Q. And I don't recall if I asked you, who were
2 your supervisors when you were a yard conductor? 02:25:58

3 A. At the time, Mark Schulthies and Tom Oughton.

4 Q. Okay. And how did your duties change as a
5 yard conductor from being an assistant conductor? 02:26:11

6 A. Just the bid process.

7 Q. But what was -- what was the change in your
8 actual day-to-day duties?

9 MS. PRICE: Objection. Lacks Foundation.
10 assumes facts. 02:26:22

11 THE WITNESS: I just went from being number
12 two to number one in charge of -- you know,
13 authority wise.

14 MS. MAYLING: Q. So it didn't change your
15 duties at all? 02:26:33

16 A. It just gave me more responsibilities.

17 Q. What more responsibility did it give you?

18 A. I was in charge of all of the moves in the
19 yard involving the trains, make-up, break-up.
20 Everything was basically on me. 02:26:45

21 Q. Okay. When you say you're in charge of all
22 the moves in the yard, what does that mean?

23 A. The mechanical foreman would give us a switch
24 list, and I would have to perform, you know, and I had
25 like ten hours to do it, so... 02:27:05